

## ORDINANCE 86- 49

To Amend Chapter 12.08 of the Bloomington Municipal Code Entitled  
"Excavations"

WHEREAS, In order to provide for more efficient and safe street repairs and street cuts within the City of Bloomington when such are necessary, certain amendments to the Bloomington Municipal Code should be made:

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

Section I. The following Sections of Chapter 12.08 "Excavation" of the Bloomington Municipal Code shall be amended to read as follows:

12.08.030 Permit fee. Any person desiring to make any opening or excavation contemplated by this Chapter shall pay to the City Engineer for the permit required by Section 12.08.020 the sum of fifteen dollars per excavation.

12.08.050 Bond required--Amount--Conditions. At the time of filing the petition under the provisions of Section 12.08.040, the person desiring to make any opening or excavation shall also file a bond payable to the city in a sum not less than one hundred dollars and not more than three thousand dollars as the City Engineer may designate. In the alternative, for projects where the projected cost exceeds three thousand dollars, the City Engineer may require a bond in an amount not to exceed the total projected cost of the project, plus twenty-five percent (25%), in the event such bond is deemed necessary to ensure performance of the contractor. Bonds shall be filed with the City Engineer and shall be conditioned to save the city harmless from any loss, cost or damage by reason of such proposed work, and that the same shall be done in all respects in conformity to the requirements of this code and all other ordinances of the city regulating same; provided, however, that a single or continuing bond may be given to embrace all work of the petitioner for a period of time between the date of the execution of the same and two years from the date of completion of the project.

12.08.070 Restoration of surface to be accomplished by permittee. The person to whom a permit is issued under the provisions of this chapter shall properly replace or cause to be replaced all pavement cut into and disturbed by any person under a permit issued under the provisions of this Chapter, in compliance with Bloomington Municipal Code Section 17.08.080, and in the manner and following the specifications required by the city engineer. In the event of the permittee's failure to do so, the city may replace such pavement or employ another contractor to do so, at the expense of the permittee, such expense to be deducted from the deposit required by Section 12.08.060. In addition, the city may take such civil action as provided by law, including, but not limited to, imposition of penalties or other relief as provided for herein. In the event reinspection of pavement cut or repaired hereunder is required as a result of noncompliance with any section contained herein, a reinspection fee in the amount of twenty-five dollars (\$25.00) may be charged by the City Engineer for each day the work remains unfinished beyond the specified completion time.

12.08.080 Return of excess deposit after payment of cost--Liability permitted to continue for two years. In the event it is necessary for the city to replace the surface, as provided in Section 12.08.070, the City Engineer shall, after deducting the actual cost of relaying or repairing of the pavement, return the excess of the deposit required by Section 12.08.060, if any, to the person depositing the same; provided, however, that at any time within two years after the permittee, the City Engineer, or their authorized agents, have replaced the pavement, it becomes necessary to relay the same because of settlement of the backfilling, the person having made such opening or excavation shall reimburse the city for any additional expense incurred in making the repair permanent, and this expense shall include the cost of excavating the trench or cut and refilling and tamping the same.

12.080.100 Location of mains and pipes--Supervision of work. It shall be the duty of the permittee in connection with all work contemplated by this chapter, through its duly authorized agents, to determine the proper location for the water, gas, sewer or other connections or conduits to be made, and to locate all sewer laterals and taps and the city engineer shall supervise the replacing of the excavation and pavements and see that all work in connection therewith is made and completed in a workmanlike manner, and in compliance with all safety requirements and specifications required hereunder.

12.08.110 Taking up pavement--Piling of material along curb. Any person receiving a permit under the provisions of this Chapter shall take up the pavement when the excavation is made through any kind of pavement and pile the same in a neat pile along the curb. All unacceptable backfill shall be hauled away in a timely manner.

12.08.140 Barricades--Danger lights All the proper barricades and danger lights shall be maintained by the party to whom the permit was issued under the provisions of this chapter until the opening has been repaired and replaced by the permittee. Street repairs on all principal and secondary arterial streets within the city shall be made in compliance with "method of marking" requirements of the Indiana Department of Highways unless otherwise approved in writing by the City Engineer. Other specific safety precautions may be required by the City Engineer. Such person shall be required to maintain such barricades and danger lights and other safety precautions until such repair and replacing has been inspected and approved by the City Engineer.

Section II. Chapter 12.08 shall be amended to add the following new section 12.08.170:

12.08.170 Violations. Any person who violates any of the provisions of this Chapter or fails to comply herewith, or who violates or fails to comply with any order made hereunder, is severally for each and every such violation and noncompliance, respectively, subject to a penalty in an amount not to exceed one hundred dollars (\$100.00) per day. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and, when not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense. In addition, the City Engineer shall have the authority to withhold issuance of new permits when an applicant is not in compliance with any previous permit issued hereunder.

SECTION III. Section 17.08.080(1) Street Cuts shall be amended so that the first line of said subsection shall read as follows:

Street cuts shall be permanently repaired within forty-eight (48) hours of completion of arterial street and within five (5) days on all other after all subgrade work has been completed.

SECTION IV. Severability. If any section, sentence, or provision of this ordinance or the application thereof to any person or circumstance shall be declared invalid, such invalidity shall not affect any of the other parts of this ordinance which can be given effect without the invalid part, and to this end the provisions of this ordinance are declared to be severable.

Section IV. This Ordinance shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor.

PASSED and ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 1<sup>st</sup> day of October, 1986.

  
JAMES C. REGESTER, President  
Bloomington Common Council


ATTEST:

  
PATRICIA WILLIAMS, City Clerk

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 2 day of October, 1986.

  
PATRICIA WILLIAMS, City Clerk

SIGNED and APPROVED by me upon this 3 day of October, 1986.

  
TOMILEA ALLISON, Mayor  
City of Bloomington

This Ordinance amends various sections of Chapter 12.08 of the Municipal Code entitled "Excavations" to require compliance with engineering specifications for street repairs; to require compliance with specific safety standards on arterial streets; and to add a general penalty provision for non-compliance.

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